REMARKS

Claims 1-4, 9 and 11-26 remain in the application. As indicated above, claims 5-8 and 10 have been cancelled and the remaining claims have been amended to more clearly define the present invention.

Claims 1-26 have been rejected under 35 USC 102(a) as being unpatentable over Burns in view of Beaudoin et al. Burns discloses a method of, and system for, on-site refueling, i.e., delivering petroleum and similar products from a tank truck into customer vehicles or other tanks at a customer's site, and further discloses means for ensuring the accurate delivery of products in accordance with the instructions on a series of delivery lists. The method of delivery includes the use of a probe having digital memory and capable of comparing input signals from passive electronic tags with stored data. Each use of the probe in reading a tag is recorded in the probe, stored in its memory, and later downloaded into an on-board computer on the tank truck and used to calculate the gallons delivered and to identify the product delivered into each customer tank. At the end of the day, the on-board computer is downloaded into an office computer to complete customer billing records, evaluate driver compliance with the delivery process, and post inventory, sales, and financial records.

Specifically, when arriving at each customer site, the driver first uses the hand-held probe to interrogate the customer site's passive ROM device. If the driver fails to do this, the first vehicle interrogation will remind the driver of the need to interrogate the customer site passive ROM device. When delivering products to customer vehicles at a customer site, the hand-held probe is used to advise the driver of the proper fuel product to deliver to each vehicle, considering the vehicle's specific engine requirements, the tax laws, and the environmental laws and regulations that apply to that customer site's geographic location. Just prior to refueling each vehicle, the driver touches the vehicle's passive ROM device with the hand-held probe. A series of beeps or other type of signal may be emitted from the hand-held probe to inform the driver of the correct fuel to use for the vehicle. As a confirmation, the driver must touch the hand-held probe to the passive ROM device located at the nozzle of the selected delivery hose whereupon a signal confirms that this is the correct hose or warns that it is not.

Each probe use by the driver is recorded and stored in the RAM memory of the hand-held probe, namely: the serial number of the passive ROM device on the vehicle or hose, the date and exact time of the refueling action, accurate to the second, and a record of the signal

given to the driver, including the signal regarding hose selection. At the same time, and during the entire driver's day, the delivery truck's on-board computer continually interrogates the pulse counter(s) connected to the truck's meter(s) every 10 seconds, storing in the on-board computer's PCMCIA mass storage device the accumulated gallons that have been delivered from the meter(s) at these ten-second intervals, along with the exact time, accurate to the second. These records are correlated with the time-of-refueling records stored in the hand-held probe for each vehicle refueled to determine the exact gallonage and specific product delivered to each vehicle.

After refueling all of the vehicles at a customer site, the driver must transfer the vehicle data recorded in the hand-held probe at this refueling stop into the on-board computer. The on-board computer program then correlates the time of refueling of each vehicle from the hand-held probe file with the ten-second meter readings recorded in the on-board computer file. From this data, the program calculates the gallonage and identifies the specific product delivered into each vehicle, and prints a refueling list for the customer which lists each vehicle refueled and the exact gallons and product delivered into it.

This apparatus and its method of use is substantially different from Applicant's much simpler device and system, and is subject to error due to loss of information if the hand held "probe" is lost, misplaced or damaged during a daily use because, as pointed out above, it stores all the data that it has read during operation at a particular site, which incidentally may include the servicing of numerous vehicles, and then later transfers the vehicle data recorded in the hand-held probe at into a computer. A computer program then correlates the time of refueling of each vehicle from the hand-held probe file with the ten-second meter readings recorded in the on-board computer file to generate its records.

Applicant's system does not store information for later transfer to a computer, and instead immediately transmits the information read from the magnetic port identifiers to the service truck's computer, which does all of the records keeping and computational work. Whereas the Burns probe is pre-programmed to instruct the operator as to the correct fuel type to be input to a particular fill port, Applicant's hand held reader provides no such function. In Applicant's system the hand held device merely communicates fill port information magnetically read at the fill port to the truck-carried computer, and the computer makes a determination and sounds either a confirming horn, or a warning alarm if the product about to be delivered is incorrect. Thus, although the two systems may accomplish a similar

overall result they do it in a different manner and use different equipment. Applicants therefore submit that the claimed system is not met by or suggested by Burns.

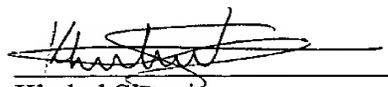
Beaudoin et al disclose an operator communication system in which a transceiver carried by the operator allows two-way communication of information between the operator and a tank truck receiver or base receiver. The operator can input fill tank information via a touch pad interface or obtain information using a bar code reader. In any event, the operator must be trained to use the electronic communications device. This reference merely discloses an ordinary two-way communication facility for allowing an operator to obtain and then communicate information to a remote computer. This system is hardly passive in that it requires substantial user interaction with the handheld transceiver. To combine this teaching with Burns would do no more than provide communications capability to the Burns system. The resulting system would not be simpler but would in fact be more complex.

As pointed out in Applicant's disclosure, a principal objective of the present invention is to provide an almost entirely passive system in which an unskilled and/or minimally trained operator can perform a servicing operation and do nothing more than attach a reader to a magnetic fill port information source, stick a fill hose nozzle in a fill port and commence refueling the vehicle unless he hears a warning horn sounded by the service truck informing him that he has the wrong hose for the present fill port.. This is an important distinction because it allows a heavy equipment operator to employ very low skilled workers to do an important part of the heavy machine industry's work; namely, keeping the equipment fueled and lubricated at low labor cost. Applicant's system is simple in both structure and use, and is relatively inexpensive to manufacture and use, yet gets the job done at an overall cost that the systems of Burns and/or Beaudoin et al, either alone or in combination can not come close too.

Applicant therefore submits that the claims as now amended call for the use of specific magnetic information source and reader means used in an almost entirely passive system not disclosed or suggested by the references and thus define over the cited prior art. Reconsideration is requested. In the event that a telephone conference would expedite prosecution of the application, the Examiner is respectfully invited to contact the undersigned by telephone at the number set out below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS LLP



Khaled Shami
Reg. No. 38,745

P.O. Box 1404
Alexandria, Virginia 22313-1404
(650) 622-2300

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